

STOCK DIVIDENDS HELD NON-TAXABLE

U. S. Supreme Court Decides,
5 to 4, They Are Not
Really Income.

FEDERAL LOSS IS LARGE

Representative Hull Believes
Ruling Will Cost Govern-
ment Hundreds of Millions.

Special to THE SUN and NEW YORK HERALD.
WASHINGTON, March 8.—The Su-
preme Court to-day held by a 5 to 4
decision that the Federal Government
cannot tax stock dividends as income
despite the income tax amendment to
the Constitution. Sections of Article I
of the Constitution prevents such tax-
ation, it was held.

That section of the 1918 income tax
law assessing as income such dividends
decried by corporations out of excess
earnings since March 1, 1913, was de-
clared by the court to be unconstitutional.
Similar provisions are contained
in later revenue laws and the decision
can be held to eliminate these sections
also.

As a result of the decision the Govern-
ment must refund millions of dollars
in taxes collected on stock dividends.
The amount probably will exceed \$75-
\$80,000,000 for the years 1917 and 1918, the
Treasury Department recently informed
Representative Longworth (Ohio), but
because of complicated nature of income
tax returns, officials of the bureau of
internal revenue to-night stated they
could make no definite estimate of the
amount the Government must refund.

The decision swept aside all conten-
tions of the Government, with the ex-
ception that the court declared if stock
dividends are sold and the holder realizes
a profit "such profit like any other is
income, and so far as it may have arisen
since the Sixteenth Amendment is
taxable by Congress."

How Justices Were Aligned.

Five to four decisions are becoming
quite prevalent in the court on decisions
of vital interest to finance business.
Those who formed the majority to-day
were Justice White, Associate Justices
McKenna, Pitney, Van Devanter and
McReynolds. Justice Holmes and Day
dissented on one ground and Justice
Brandeis and Clark on another.

Leading Democrats who were respon-
sible in large measure for income tax
legislation were astonished at the court's
decision, some declaring it largely nulli-
fied the income tax amendment to the
Constitution.

Representative Hull (Tenn.) said the
decision gave rich corporations and
stockholders opportunity of evading tax-
ation to a large extent and throwing
the burden on the poor people and made
possible the evasion of hundreds of mil-
lions of taxes. "It's the declaration by
the court that taxation of stock divi-
dends is unconstitutional, notwithstanding
the Sixteenth Amendment, Congress
leaders doubted if there was any legis-
lative step now by which the same pur-
pose could be effected. Likewise it was
feared that a Constitutional amendment
on the point might not stand.

The case just decided was appealed
to the Supreme Court by the Government
after Myrtle H. Macomber obtained a
similar decision from the Federal Dis-
trict Court for the Southern District of
New York. Large financial interests
made a test of the case and employed
Charles E. Hughes as chief counsel. The
specific stock dividends in issue were
1,100 shares of Standard Oil stock on
which a tax of \$1,367 was assessed and
paid under protest. These dividends were
part of a so-called "large Mellon" cut
by the oil company. The issuance of
stock dividends has been quite common
since and many large sums of war
profits were disposed of this way.

Construction of Income.

The majority opinion was emphatic
in its declaration that the word "in-
come" in the amendment and the law
could be construed in no other way
while Justice Brandeis in his dissenting
opinion declared the word "income"
should be construed "as the people of
the United States in general believe it
should mean and not solely on the in-
terpretation of lawyers."

The court held that the only question
to decide was what was a dividend—
capital or dividend—and intimated that
the fact that this system was used to
evade taxation could not enter into a
judicial determination. With this view
Justices Brandeis and Clarke differed,
asserting the question should be decided
on "the much broader ground of public
interest, with due regard for the law."
The dissenting opinion of Justices
Holmes and Day was based on the
ground that the court misinterpreted
the meaning of the words stock divi-
dend, and that it is clearly a dividend
and taxable.

One of the points raised by the ma-
jority was that nothing more clearly
showed that a stock dividend is not
income than the fact that to pay a tax
on such a dividend one would have to
sell other stocks or obtain revenue from
other sources.

"The essential and controlling fact,"
said the majority opinion, is that the
stockholder has received nothing out of
the company's assets for his separate



F A V O R
THE BUSINESS JACKETS
PRESENTED FOR SPRING
FAVOR THE IDEAS OF
ENGLISH DRAPERS IN
LINE, AND HAVE AN
ADDED GRACE GAINED
THROUGH THE TAILOR
WORK ACCOMPLISHED
UNDER THE SUPER-
VISION OF FINCHLEY.

CUSTOM FINISH WITHOUT
THE ANNOYANCE OF A TRY-ON
READY-TO-PUT-ON
TAILORED AT FASHION PARK

FINCHLEY
3 West 46th Street
NEW YORK

"OHIO, BY THUNDER!"

General Garfield once wagered
that he could tell a man's
native State by the food he
ordered. It was 2 o'clock in
the morning.

"Ham and eggs!" ordered one
man. "Ohio, by thunder!" ex-
claimed the General. "Only
an Ohioan would order ham
and eggs at 2 o'clock in the
morning."

But that was before the ad-
vent of the CHILDS restau-
rants—



use and benefit; on the contrary, every
dollar of his original investment, to-
gether with whatever accretions and
accumulations have resulted from em-
ployment of his money and that of the
other stockholders in the business of
the company, still remain the property
of the company and subject to business
risks which may result in wiping out
the entire investment.

"Having regard to the very truth of
the matter, to substance and not to
form, he has received nothing that an-
swers the definition of income in the
meaning of the Sixteenth Amendment."
"We are clear that not only does a
stock dividend really take nothing from
the property of the corporation and add
nothing to that of the shareholder, but
that the antecedent accumulation of
profits evidenced thereby, while indicat-
ing that the shareholder is the richer
because of an increase of his capital at
the same time, shows he has not realized
or received any income in the transac-
tion."

Sweeping Effect Shown.

The sweeping effect of the decision is
shown by the following:
"Thus from every point of view we are
brought irresistibly to the conclusion
that neither under the Sixteenth Amend-
ment nor otherwise has Congress au-
thorized a tax without apportionment
of the property of the corporation and
true stock dividend made lawfully and
in good faith or the accumulated profits
behind it as income of the stockholder.
The revenue act of 1918 in so far as it
imposes a tax on stock dividends is
because of such dividend violates the pro-
visions of Article I, section 2, clause 3,
and Article I, section 9, clause 4, of the
Constitution; and to this extent is in-
valid notwithstanding the Sixteenth
Amendment."

FALSE STOCK TAX SUIT FLASH COSTLY

Continued from First Page.

With these stocks, suddenly were knocked
in the head. Their holdings were liqui-
dated quickly, as were thousands of
shares which had been purchased within
recent days, since the market has started
to improve.

Truth in Twenty Minutes.

Here and there throughout the dis-
trict a few commission houses began to
get skeptical of the news reports and
hastily got into communication with
Washington. A large news gathering
agency which had awaited the completion
of the decision before sending out
its report sent out the correct one. This
was at 12:30 o'clock, and in the interval
between the first reading of the re-
porter's wrong guess and the correct re-
port much water had gone over the
wheel and any number of speculative
accounts wiped out.

As a commission house, here and there,

ascertained first hand that the decision
was favorable to the corporations instead
of unfavorable, and as the floor traders
learned the truth of the decision, senti-
ment turned squarely about. Within
a space of five minutes the market was
turned from a bear rampage into a wild
bull. Possibilities in such stocks as rolled up
great surpluses during the war and
which now may distribute this surplus
in the nature of stock dividends were
realized fully. Orders to buy stocks "at
the market" flooded Wall Street. Bears
tried to stem the tide for a while, but
were carried under by the overflow of
orders and stocks all along the line went
up by leaps and bounds. To add to the
day's excitement, another Supreme Court
decision, in which it was ruled that val-
uation of the railroads is to be at present
instead of the cost value, was an-
nounced. The rails started up with the
industrials and held most of their gains.

Ticker Ten Minutes Behind.

Tight money, the possibilities of ex-
port embargoes, warnings of the Federal
Reserve Board—everything was forgot-
ten in the mad rush to buy stocks yes-
terday afternoon, and the day's turnover
exceeded 1,700,000, the largest single
day's business this year. A total of
400,000 shares were bought and sold in
the last hour, and the ticker was more
than ten minutes behind the market at
the close.

The market had been overvalued heavily.
The tremendous demand for stocks,
therefore, came mostly from the short
interest, who saw in the extraordinary
advance their profits of the long de-
cliff go over the boards. As an in-
stance of the necessity of covering the
"shorts" in the market experienced they
bought General Motors up more than 40
points. Crucible Steel, 37. American
Vulcan 14, United States Rubber 10 1/2
and Chandler 14 in the wild scramble to
get stocks.

Commission houses were obliged to
sell customers right and left for more
margins when the incorrect version of
the decision came out. The customers
of houses out of New York and those in
the branch offices uptown and in other
cities were particularly unfortunate in
the mixup. For when the decision was
printed in their offices, far away from
the market, they naturally sold stocks
short. By the time they had recovered their
equilibrium the market had turned the
other way and was from 10 to 20 points
away from them. In such cases nothing
was to be done but wipe the ac-
counts off the board.

One Man Cleans Up \$14,000.

There were some stories of tremendous
losses and gains here in New and
Broad streets after the close of the mar-
ket. One particularly lucky individual
lost but fifty shares of General Motors,
closed the day with a net profit of
\$14,000. He sold out just before the
close and starts for Palm Beach this
morning. Any number of \$10,000 and
\$20,000 losses were reported in the mar-
ket, and Wall Street as a whole declared
the season open on news reports who
jump at conclusions.

Stock Exchange authorities expressed
genuine concern over the action of the
market. Complaint rolled in on them
from all sides. "What can we do about
it?" they replied. "If any one can
suggest a way by which we may
straighten out the tangle we will be glad
to hear him." All sorts of wild ideas
were suggested, one of them being that
all Stock Exchange transactions of the
day be cancelled, and that prices which
ruled at eleven A. M. yesterday be taken
as to-day's opening prices. This, of
course, is out of the question.

A few other cases like yesterday's
error have occurred in the history of
Wall Street. In one of them an error
was made in the dividend of an Illinois
company. An old trader yesterday recalled the time
the Agricultural Department sent out an
incorrect report on the corn crop. The
consensus appeared to be last night that
if a stockholder made money in the mar-
ket yesterday he could ascribe it to good
luck and the Supreme Court. If he lost
money and was wiped out, in the classic
of the A. E. F., he merely was out of
luck.

White Slave Decisions Stand.

WASHINGTON, March 8.—By refusal of
the Supreme Court to-day to review
the case, Federal court decisions hold-
ing that the transportation of women
from one State to another in private
automobiles for immoral purposes comes
within the provisions of the white slave
act will stand.

For Colds, Grip, or Influenza
and as a Preventive, take LAXATIVE
BROMO QUININE Tablets. Look for E. W.
GROVE'S signature on the box. 35c—44c.

GIVES LABOR RULES FOR NAMING BOARD

I. C. C. Divides Railway Work-
ers Into Three Groups to
Nominate Members.

NO TIME FOR HEARINGS

All Nine to Be Selected in 30
Days and Approved
by Senate.

Special to THE SUN and NEW YORK HERALD.

WASHINGTON, March 8.—The Inter-
state Commerce Commission, in regula-
tions issued to-day, prescribed the method
of making nominations for the Railroad
Labor Board created by the recent trans-
portation act to settle all railway wage
questions and disputes in the transporta-
tion service.

The railway employees are divided
into three great groups by unions, and
nominations for the labor representatives
are to be made by these groups. This
method was selected by the commission
because nominations must be in within
thirty days, and there is no opportunity
for affording hearings on the nomina-
tions or consulting all employees of the
railroads. It is set forth that the or-
ganizations named for nominations are
those recognized as representing at least
90 per cent. of employees. Nominations
for the carriers are to be made by the
associations of railway executives, as
representing the roads.

Because of the shortness of time for
nominations the commission declared it
would not attempt to consider at this
time nominations of subordinate officials.
While the labor unions are grouped for
nominating purposes, this grouping does
not, it is said, mean a division of repre-
sentation.

The board is to have nine members,
three representing the employees, three
representing the carriers and three named by
the President, representing the public.

For the carriers are to be selected
not less than six nominees and with
the three named by the President they
must be confirmed by the Senate. Sub-
ordinate officials are not to be repre-
sented because interpretation of the
meaning of the phrase "subordinate offi-
cials" must be made after hearings at
which employees, officials and subor-
dinate officials are to have opportunity
of expressing their views as to the class
of men who come within the delineation.

The regulations state:

Special to THE SUN and NEW YORK HERALD.

CHICAGO, March 8.—Representatives
of 378,000 railway workers in the United

IMPORTANT SALE

AT THE

AMERICAN ART GALLERIES

MADISON SQUARE SOUTH NEW YORK CITY

Tomorrow (Wednesday)

Afternoon at 2:30 o'clock

The Collection of

Mr. Enrique L. Heniot

AWELL-KNOWN ANTIQUARY

OF SOUTH AMERICA

Egyptian, Roman and Venetian

Glass, Tanagra Terra-Cottas, Ivory

and Wood Carvings, Rock Crystal

and Enamels, Chinese and European

Porcelains and 18th Century Bibe-
lots.

On Free View 9 A. M. to 6 P. M.

The Sale Will Be Conducted by

MR. THOMAS E. KIRBY

and his assistants,
MR. OTTO BERNET and MR. H. H. PARKS

of the

AMERICAN ART ASSOCIATION, Managers.

2, 4 and 6 East 23d St., Madison Sq. South.

Brotherhood of Maintenance and Way-
men and Railway Laborers voted to-day
to remain on their jobs and give the
new Labor Board a chance to adjust
their wages.

After five days of conference the 360
representatives under the leadership of
J. J. Furman, vice-president, de-
cided to go along with the other four
organizations who are asking similar
wage increases for their members.

N. Y. BANK CLERK

HELD IN WINNIPEG

Disappeared From Battery

Park Along With \$3,400.

Sandford Henry Pollett, 19, of 825

Fulton street, Brooklyn, a former clerk

at the Battery Park National Bank, 8

Broadway, is under arrest in Winnipeg,

Canada, according to a telegram re-
ceived from the Winnipeg police yester-
day. He is alleged to have stolen \$3,400

from the bank. Charles Bevans of 260

St. James place, Brooklyn, was arrested

with Pollett and is held as an accessory

after the fact. Each of the men had a

large roll of money when arrested.

A. H. Merry, cashier of the bank, said

yesterday that Pollett, who had worked

for the bank for two years, disappeared

February 28.

\$500,000 Damages Demanded.

A summons demanding \$500,000 dam-

ages was filed in the Supreme Court yester-

day by Hartford T. Marshall, an at-

torney, in behalf of Marvelle Cooper

Brice against Hugo Cunliffe Owen. Mr.

Marshall has not yet filed a complaint

and he declined to explain the nature

of the action or give any information

about the parties.

Concluding Sessions of the

Famous Mesdag Collection

TO-NIGHT AT 8:15 O'CLOCK

At the American Art Galleries

Madison Square South, New York

concluding

Tomorrow (Wednesday) Night at 8:15

In the Grand Ballroom of the Plaza Hotel

Fifth Avenue, 58th to 59th Street

(Admission to the Plaza by Ticket to Be Had Free of the Managers)

When the Important Paintings

AND

Many Antique Tapestries

Will Be Sold

ON FREE VIEW TO-DAY, - A. M. UNTIL 6 P. M.

At the American Art Galleries

The Sales Will Be Conducted by Mr. THOMAS E. KIRBY

and his assistants, MR. OTTO BERNET and MR. H. H. PARKS

of the

AMERICAN ART ASSOCIATION, Managers.

Madison Sq. South, Entrance E. E. 23d Street, New York.

As Springlike as a Robin's Note—

The Clothes We're Now Displaying

The Brill shops are bursting into bloom. Every day

sees new models, first harbingers of the coming season,

displayed upon our racks. And every one in distinct,

emphatic accents spells Spring.

The lines, the patterns, the fabrics: all unite to form

the figures 1-9-2-0. The coats have a slight fullness at

the hips; collars are a trifle longer; lapels more mod-

erate. Two factors remain the same—the quality of the

woolens, the quality of the workmanship. They meet

the same old

Kuppenheimer and Brill Clothes

standards. Our regular customers know what that

means. That's why they're regular customers. Take

ten minutes to look over our new models and it's a good

gamble you'll join that loyal brotherhood.

Suits and Top Coats, \$45 to \$135

Brill Brothers

THE KUPPENHEIMER HOUSE IN NEW YORK

279 Broadway 44 East 14th St.

1456 B'way, at 42d St. Broadway, at 49th St.

47 Cortlandt Street 125th St., at 3d Ave.

2 Flatbush Ave., Brooklyn

PAN-GERMANS PRAISE HINDENBURG SCHEME

Favor Him for President as
One Man to Unite People.

BERLIN, March 8.—The announcement

that Field Marshal von Hindenburg had

consented to become a candidate for the

German Presidency was conspicuously

featured in the conservative and Pan-

German newspapers, which are unani-

mous in designating him as a "non-

political and non-partisan" aspirant for

the office and the one man able to re-

unite the German people.

With the exception of Vorwärts, the

liberal journals have not yet expressed

themselves on the Hindenburg candi-

dacy. This organ of the Majority So-

cialists, however, is outspoken in de-

claring it "the biggest of all the stu-

pilities committed by Hindenburg under

the influence of Helfferich and Luden-

dorf." It classes the Field Marshal as

the foremost exponent of the military-

civilian caste and predicts that his el-
evation to the Presidency would put a

definite end "to the mighty movement

for a revision of the Treaty of Ver-

sailles, which is daily gaining momen-

tum abroad."

Mrs. Butler to Aid Barnard Fund.

The Barnard College endowment fund

committee announced yesterday that

Mrs. Nicholas Murray Butler, wife of

the president of Columbia University,

had offered to aid the alumnae in the